

Debtors' Ex. 91



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June 21

EXCISE TAXES—GASOLINE

Act No. 43

**Excise Taxes—Gasoline and Gas Oil or Diesel Oil;
Pool and Other Bets**

(H.B. 1052)

[No. 43]

[Approved June 21, 1971]

AN ACT

To amend section 83 of Act No. 2 approved January 20, 1956,
known as the “Excise Act of Puerto Rico”.

Be it enacted by the Legislature of Puerto Rico:

Section 1.—Section 83 of Act No. 2, approved January 20, 1956,⁸⁷
known as the “Excise Act of Puerto Rico”, is hereby amended to
read as follows:

Section 83.—Disposal of Funds

The proceeds of the taxes collected under this act shall be covered
into the General Fund of the Treasury of Puerto Rico, except the
amount of the tax on gasoline and gas oil or diesel oil prescribed
in item 15 and in item 21, respectively, of subsection (b) of sec-
tion 10 of this act,⁸⁸ which amount shall be disposed of in the
following manner: (i) Up to June 30, 1970, six-elevenths of the
tax on gasoline shall not be covered into the Treasury of Puerto
Rico, but deposited in a Special Fund in the name and for the
benefit of the Puerto Rico Highways Authority to be used by the
Authority for its corporate purposes; (ii) Effective July 1, 1970,
eight-elevenths of the tax on gasoline shall be covered into said
Special Deposit; (iii) Effective July 1, 1971, the total of the pro-
ceeds of the tax on gasoline equivalent to eleven cents per gallon
shall be covered into said Special Deposit to be used for the same
purposes; (iv) Effective July 1, 1970, four cents of the proceeds
of the tax on gas oil or diesel oil shall be covered into said Special
Deposit to be used also by said Authority for corporate purposes.

The Secretary shall transfer from time to time and as agreed
upon with the Highways Authority, the amounts covered into said
Special Deposit after deducting therefrom the amounts reimbursed
under the provisions of subsection (c) of section 30 of this act.⁸⁹

⁸⁷ 13 L.P.R.A. § 4083.

⁸⁸ 13 L.P.R.A. § 4010(b).

⁸⁹ 13 L.P.R.A. § 4030(c).

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Said authority is hereby authorized to pledge the proceeds of the tax collections thus received to the payment of the principal of and the interest on bonds or other obligations of the Authority or for any other lawful purpose of the Authority, such pledge to be subject to the provisions of section 8 of Article VI of the Constitution of Puerto Rico;⁹⁰ Provided, however, That the proceeds of said tax collections shall be used only for the payment of interest and amortization of the public debt, as provided in said section 3, to the extent that the other available revenues referred to in said section are insufficient for such purpose; otherwise the proceeds of said tax collections, in the necessary amount, shall be used only for the payment of the principal of and the interest on the bonds and other obligations of the Authority and to comply with any other covenants made by the Authority with the holders of said bonds or other obligations.

The Commonwealth of Puerto Rico does hereby pledge to and agree with any person, firm or corporation, or any agency of the United States of America, or of any State, or of the Commonwealth of Puerto Rico; subscribing to or acquiring bonds of the Puerto Rico Highways Authority, for which such proceeds of the tax on gasoline and on gas oil or diesel oil are pledged, as authorized by this section, that it will not reduce the tax on gasoline or on gas oil or diesel oil prescribed by item 15 and 21, respectively, of subsection (b) of section 10 of this act, below eleven (11) cents a gallon of gasoline or of four (4) cents a gallon of gas oil or diesel oil, respectively, or to eliminate or reduce below eleven (11) cents a gallon of gasoline or of four (4) cents a gallon of gas oil or diesel oil, the amount of the proceeds of such tax to be covered into a special deposit in the name and for the benefit of the Puerto Rico Highways Authority, as provided in this section, until all such bonds at any time issued, together with the interest thereon, are fully paid.

In the event the amount of the proceeds of the tax on gasoline and gas oil or diesel oil heretofore or hereafter allocated to said Authority in accordance with this act should at any time be insufficient to pay the principal of and interest on bonds or other obligations for borrowed money issued by said Authority to pay the cost of traffic facilities and for the payment of which said gasoline and gas oil or diesel oil tax proceeds have been pledged, and debt service reserve funds of the Authority are applied to making up

⁹⁰ L.P.R.A., Vol. 1.

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the deficiency in the amounts needed for such payments, the amounts of such debt service reserve funds so applied to making up such deficiency shall be reimbursed to the Authority from the first proceeds received in the next fiscal year or subsequent years of the Commonwealth of Puerto Rico derived from (i) any other taxes which may then be in effect on any other fuels or propellants which are used, among other purposes, to propel highway vehicles and (ii) any remaining portion of the tax on gasoline and gas oil and diesel oil then in effect.

The proceeds of such other taxes and such remaining portion of the tax on gasoline and gas oil and diesel oil which are to be applied hereunder to the reimbursement of such debt service reserve funds shall, when collected, not be covered into the General Fund of the Treasury, but shall be deposited in the Special Deposit above-mentioned for the benefit of the Puerto Rico Highways Authority, and, subject to the provisions of section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico, applied to the reimbursements of such debt service reserve funds.

The taxes on public shows collected in the municipal Stadium of the Capital, reckoning from the date of inauguration of the Municipal Stadium of the Capital, shall be covered into a special account and shall be transferred to the municipality of San Juan by the Secretary of the Treasury at the end of each fiscal year, those sums that might be necessary to settle the contracted obligations, until the total payment has been made of the debt incurred by the municipality of San Juan for the construction of the stadium and its facilities, as well as for the construction of any of its improvements or extensions and maintenance in general. On liquidating said debt of the municipality of San Juan, the taxes on public shows collected in the Municipal Stadium of the Capital shall be covered into said special account. The Secretary of the Treasury shall transfer to the Municipality of San Juan at the end of each fiscal year those funds that might be necessary, taking into consideration the revenues and expenses resulting from the operation and construction of the park and its facilities as well as for the construction of any other improvements or extensions and maintenance in general.

In case that any of the municipalities of Ponce, Mayagüez, Caguas and/or Arecibo incur in debts with the purpose of defraying improvements or extensions in their respective athletic parks, the taxes on public shows collected in said athletic park shall be covered into a special account and shall be transferred to the

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municipality to which they may correspond until the total payment of the incurred debt. This provision shall take effect on and after the date on which said improvement or extension works shall begin. The Public Recreation and Parks Administrator shall supervise and approve the works and shall notify to the Secretary of the Treasury of the date on which such works are started. For the purpose of this paragraph, there shall be construed as having been begun, the improvement or extension works, once the Municipal Assembly involved authorizes a loan for financing the said works. Such funds shall be covered into the General Fund of the Treasury of Puerto Rico, if the improvements or extensions do not begin physically within a period of two (2) years from the date of the authorization of the loan.

The proceeds of the tax on the occupancy rental of hotel rooms, apartment hotels and guesthouses shall be covered into the "Special Fund for the Amortization and Redemption of General Obligations Evidenced by Bonds and Promissory Notes", created by Act No. 269 of May 11, 1949,⁹¹ up to that amount which the Secretary of the Treasury may annually determine as sufficient and adequate to cover the payment of principal of and interest on the bonds and other obligations issued by the Commonwealth of Puerto Rico for the benefit of the Puerto Rico Recreational Development Company. In determining this amount, the Secretary of the Treasury shall include a reasonable amount as reserve. Once the aforesaid amount has been thus covered, then the proceeds of this tax shall thereafter be covered during the year involved into the "Puerto Rico Recreational Development Fund" hereby created. At least once a year the moneys in said Fund shall be transferred to the Recreational Development Company to be used by it for the carrying out of its purposes.

One third of the taxes collected on prizes obtained in racing pools, daily doubles, subscription funds and any other gaming in places where races are held other than gamings in pari-mutuels shall be covered into the Educational Fund.

The taxes collected on chips by virtue of Section 40A of this act,⁹² shall be covered into the Educational Fund.

Section 2.—This act shall take effect immediately after its approval.

Approved June 21, 1971.

⁹¹ 13 L.P.R.A. §§ 402-404.

⁹² 13 L.P.R.A. § 4040A.